

REMARKS

The Final Office Action mailed January 31, 2005, has been received and reviewed. Claims 1 through 41 are currently pending in the application. Claims 1 through 41 stand rejected. Applicants respectfully request reconsideration of the application in view of the arguments set forth hereinbelow.

Assertion of Functional Recitations

In responding to Applicants previously submitted Amendment, the Examiner states the following:

As concerns remarks pertaining to the functionality of the members, the examiner takes the position that the functionality of structural members alone do not qualify as patentable subject matter within an apparatus claim. (Office Action, page 5).

Applicants submit that all arguments regarding patentability of the claims set forth in the previously submitted Amendment, as well as the arguments regarding patentability of the claims presented hereinbelow are directed to *structural* limitations of the claims and not functional recitations. Applicants further note that, even if a limitation being reviewed by the Examiner were considered to include language that places an element in a functional context, that such language is permissible. For example, MPEP § 2173.05(g) sets forth the following examples:

It was held that the limitation used to define a radical on a chemical compound as “incapable of forming a dye with said oxidizing developing agent” although functional, was perfectly acceptable because it set definite boundaries on the patent protection sought. *In re Barr*, 444 F.2d 588, 170 USPQ 33 (CCPA 1971).

In a claim that was directed to a kit of component parts capable of being assembled, the Court held that limitations such as “members adapted to positioned” and “portions...being resiliently dilatable whereby said housing may be slidably positioned” serve to precisely define present structural attributes of interrelated component parts of the claimed assembly. *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976).

The Examiner did not identify any specific elements or limitations that are asserted to be purely functional and not accorded any patentable weight. Applicants, therefore, request that the Examiner provide an explanation in future communications regarding what elements, limitations or arguments are not being accorded any patentable weight based on “functional” ground as well as the Examiner’s rationale for such a finding.

Finally, if the Examiner’s remarks are directed to Applicants’ discussion of the of the prior art references, including the structural arrangement and functionality of the various components cited by the Examiner, Applicants submit that the function of such components goes directly to the issue of why one of ordinary skill in the art would or would not be motivated to combine the applied references in the manner proposed by the Examiner. As such, any discussion regarding the operation of the various devices of the applied prior references is not only considered to be proper, but necessary.

35 U.S.C. § 102(b) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 5,067,589 to Bartnicki

Claims 22 through 38 and 41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bartnicki (U.S. Patent No. 5,067,589). Applicants respectfully traverse this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 22 is directed to a platform assembly. The platform assembly comprises: a first assembly having at least one longitudinally extending member; a second assembly having at least one longitudinally extending member, the second assembly being longitudinally, slidably coupled with the first assembly, wherein *an intended working surface of the platform assembly is defined at least in part by the first assembly and at least in part by the second assembly*; and at least one catch device associated with the first assembly and positionable between a first position *wherein a body portion of the at least one catch device*

projects from the intended working surface and a second position wherein the body portion projects from a second opposing surface of the platform assembly.

The Examiner cites Bartnicki as disclosing “a platform assembly comprising a first assembly having a longitudinally extending member; a second assembly having a longitudinally extending member and being slidably coupled with the first assembly; and a catch device 18 associated with the first assembly and having a body portion projection from a first surface and including a sleeve having shoulder sections/collar and flanges (inclusive of members 124 and 142) and forming an interference fit, wherein the catch extends through an opening in the first member; spacers (inclusive of members 42 and 76)., [sic] the extending members having a polygonal cross-section including rectangular and being interleaved.” (Office Action, page 3). Applicants respectfully traverse the rejection of claim 22 and submit that Bartnicki fails to describe all of the elements and limitations of claim 22.

Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other. A lock (18) is used to fix the location of the first location support section relative to the second support section in one of a number of specified positions. The lock of Bartnicki includes a biased pin coupled to the side of the first support section and configured to engage one of a plurality of openings in a portion of the second support section. Application of an appropriate force on the pin overcomes the biasing force allowing the pin to become disengaged from the openings of the section support section thereby allowing the support sections to slide relative to one another. (See, e.g., (Col. 2, line 65 through col. 3, line 8).

However, Bartnicki fails to describe all of the limitations of claim 22 of the presently claimed invention. Specifically, Bartnicki fails to describe a platform assembly wherein an intended working surface is defined at least in part by the first assembly and at least in part by the second assembly, and wherein at least one catch device associated with the first assembly and positionable between a first position wherein a body portion of the at least one catch device projects from the intended working surface and a second position wherein the body portion projects from a second opposing surface. It is noted that the Examiner fails to cite Bartnicki as describing such subject matter and does not address such limitations in the presently considered rejection.

The lock of Bartnicki, which the Examiner relies on as being a catch, is configured to extend from a lateral side of a single, longitudinally extending decking member for selective engagement of openings formed in another longitudinally extending member. While one may argue that a body portion of Bartnicki's lock extends from "a surface" of one of the support sections (e.g., the side surface of support section 14), that side surface of the support section is not an intended working surface which is *defined at least in part by the first assembly and at least in part by the second assembly*. Thus, the lock of Bartnicki is not described to project from such an intended working surface of the disclosed support, nor is it described to project from a surface opposing the intended working surface.

As such, Applicants submit that claim 22 is clearly not anticipated by Bartnicki. Applicants further submit that claims 23 through 38 and 41 are also allowable as being dependent from an allowable base claim as well as for the additional patentable subject matter introduced thereby.

With respect to claims 24 through 31, Bartnicki fails to describe the body portion of the at least one catch device extending through an opening defined in the at least one longitudinally extending member of the first assembly while also being positionable between a first position wherein a body portion projects from *the intended working surface*, as defined in claim 22, and a second position wherein the body portion projects from the second opposing surface.

With respect to claims 25 through 29, Bartnicki fails to teach a sleeve disposed between the opening defined in the at least one longitudinally member and the body portion of the at least one catch device, wherein the catch device is configured as set forth in claim 22.

With respect to claims 26 and 27, while the lock (16) Bartnicki includes a handle (116) at one end thereof, it clearly does not include a flange at an opposing end thereof. Nor has the Examiner pointed to any such description by Bartnicki.

With respect to claim 27, Bartnicki fails to teach that the sleeve includes a first shoulder section defined in a first end thereof, the first shoulder section being sized and configured to removably receive the first flange therein and, a second shoulder section defined in a second opposing end of the sleeve, the second shoulder section being sized and configured to removably receive the second flange therein. Nor has the Examiner pointed to any such description by Bartnicki.

With respect to claim 28, the Examiner states that “there is a degree of friction between the elongated members of Bartnicki and [such] qualifies as an ‘interference fit.’” (Office Action, page 5). However, claim 28 recites that *the body portion of the at least one catch device and the sleeve* are cooperatively sized and configured to provide an interference fit therebetween. Applicants maintain that Bartnicki fails to disclose any such arrangement and, furthermore, that an interference fit between the body portion of the lock and the mounting would be contrary to principle of operation of Bartnicki’s lock (18) as disclosed thereby.

Similarly, with respect to claim 30, Bartnicki fails to teach that the body portion of the at least one catch device and the opening defined in the at least one longitudinally extending member of the first assembly are cooperatively sized and configured to provide an interference fit therebetween.

With respect to claims 32 through 34, Bartnicki fails to teach a collar disposed *between the at least one longitudinally extending member of the first assembly and an adjacent longitudinally extending member* and, wherein the body portion of the at least one catch device, configured as set forth in claim 22, extends through an opening defined by the collar. Nor has the Examiner pointed to any such description by Bartnicki.

Again, with respect to claim 33, Bartnicki fails to teach that the body portion of the at least one catch device and the collar are cooperatively sized and configured to provide an interference fit therebetween.

With respect to claim 35, Bartnicki fails to teach at least one catch device associated with the second assembly and positionable between a first position wherein a body portion of the at least one catch device associated with the second assembly projects from the intended working surface of the platform assembly, as defined in claim 22, and a second position wherein the body portion of the at least one catch device associated with the second assembly projects from the second opposing surface of the platform assembly.

Applicants, therefore, respectfully request reconsideration and allowance of claims 22 through 38 and 41.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent No. 5,067,589 to Bartnicki

Claims 39 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicants submit that that the obviousness rejections are improper because the references relied upon by the Examiner fail to teach or suggest all of the limitations of the presently claimed invention.

Each of claims 39 and 40 are dependent from independent claim 22 by way of intervening claim 23. Claim 39 introduces the additional subject matter of at least one of the first and second pluralities of longitudinally extending members exhibiting a substantially I-beam shaped cross-sectional geometry taken substantially transverse to a longitudinal axis thereof. Claim 40 introduces the additional subject matter of at least one of at least one of the first and second pluralities of longitudinally extending members exhibiting a cross-sectional geometry taken substantially transverse to a longitudinal axis thereof having a first section adjacent a first end thereof, a second section adjacent a second opposing end thereof and at least a third section disposed between the first section and the second section, wherein the at least a third section exhibits a lesser width than either of the first section and the second section.

The Examiner states that Bartnicki discloses the platform of claims 22 and 23 and that the limitations claims 39 and 40 are merely a matter of design choice and, therefore, obvious. Applicants respectfully traverse this rejection.

As set forth herein above Bartnicki fails to teach or suggest all of the limitations of claim 22 from which claims 39 and 40 depend. More specifically, Bartnicki fails to describe a platform assembly wherein an intended working surface is defined at least in part by the first assembly and at least in part by the second assembly, and wherein at least one catch device associated with the first assembly and positionable between a first position wherein a body portion of the at least one catch device projects from the intended working surface and a second position wherein the body portion projects from a second opposing surface. It is noted that the Examiner fails to cite Bartnicki as describing such subject matter and does not address such limitations in the presently considered rejection.

In contrast, Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other and a lock (18) on the side of the first support section configured to fix the location of the first location support section relative to the second support section in one of a number of specified positions through selective engagement with openings of the second support section. The lock of Bartnicki, which the Examiner relies on as being a catch, is configured to extend from a lateral side of a single, longitudinally extending decking member for selective engagement of openings formed in another longitudinally extending member. While one may argue that a body portion of Bartnicki's lock extends from "a surface" of one of the support sections (e.g., the side surface of support section 14), that side surface of the support section is not an intended working surface which is defined at least in part by the first assembly and at least in part by the second assembly.

As such, Applicants submit that claims 39 and 40 are allowable over Bartnicki and respectfully requests reconsideration and allowance thereof.

Obviousness Rejection Based on U.S. Patent No. 5,067,589 to Bartnicki in view of U.S. Patent No. 5,401,315 to Salo et al.

Claims 1 through 9, 13, 14, 17, 18, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 1 through 9, 13, 14, 17 and 18

Claim 1 of the presently claimed invention is directed to a platform assembly comprising: a first assembly having at least one longitudinally extending member; a second assembly having at least one longitudinally extending member, the second assembly being longitudinally, slidably coupled with the first assembly; at least one catch member pivotably coupled to the first assembly; and at least one stop member coupled to the first assembly and configured to maintain a rotation of the at least one catch member at less than a full revolution.

The Examiner cites Bartnicki as disclosing first and second assemblies of longitudinally extending members slidably coupled with one another and a catch and a stop member. Essentially the Examiner relies on Bartnicki as teaching all of the limitations of claim 1 “except for the catch and stop member including pivoting members.” (Office Action, page 3). The Examiner then cites Salo as disclosing the use of catch and stop members and concludes that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the catch and stop members of Bartnicki by forming them as including pivoting members as taught by Salo et al, in order to provide means to more quickly and easily removably lock the extendible members in a [desired] length.” (*Id.*). Applicants respectfully disagree.

As a preliminary matter, it is noted that the “stop member” of claim 1 is not recited as a “pivoting member” as implied in the Examiner’s rejection.

As previously discussed, Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other. A lock (18) is used to fix the location of the first location support section relative to the second support section in one of a number of specified positions. The lock of Bartnicki includes a biased pin coupled to the side of the first support section and configured to engage one of a plurality of openings in a portion of the second support section. Application of an appropriate force on the pin overcomes the biasing force allowing the

pin to become disengaged from the openings of the section support section thereby allowing the support sections to slide relative to one another. (See, e.g., (Col. 2, line 65 through col. 3, line 8).

However, as noted by the Examiner, Bartnicki clearly fails to teach or suggest at least one catch member pivotably coupled to the first assembly and at least one stop member coupled to the first assembly and configured to maintain a rotation of the at least one catch member at less than a full revolution.

Salo discloses a size press (10) used in the production of paper goods which includes a nip (N), formed by press rolls (12, 14), through which a paper or board web is passed. The size press includes coating devices (23, 23a) mounted on applicator beams (20, 20a). The Applicator beams are supported pivotally on the frame (11) of the size press and are provided with pivot cylinders (22a) by which the applicator beams can be opened and closed in relation to a corresponding roll. The applicator beams are further provided with catches (27, 47) supported on holders (24) fixed to the frame. The catches are attached to the applicator beam by articulated joints (28, 48) and are interconnected by way of connecting links (30, 50) and a connecting rod (35). (See, e.g., col. 4, line 9 through col. 5, line 45).

The applicator beams are configured to be angularly adjusted relative to the frame to compensate for a potential difference in position relative to a corresponding roll and to equalize forces applied by the pivot cylinders. Regarding this feature Salo teaches the following:

[I]n contrast to the conventional devices...it is possible to equalize the support forces produced by the pivot cylinders 22. This is achieved by placing the catches 27, 47 at each end of the applicator beam 20 and interconnecting them by means of articulated joints in the manner in accordance with the invention. In such an embodiment, if the roll 14 has been placed diagonally as shown in FIG. 2, when the application beam 20 is being closed, a situation arises in which the cam 49 of the second catch 47 meets the support 45 on the holder 44 first. When this happens, the second catch 47 pivots around its articulated joint 48 and, at the same time, turns the first catch 27 by means of the connecting rod 35, so that the cam 29 of the first catch moves closer to the support 25 provided on the holder 24 and finally into contact with the support 25.

After the closing of the applicator beam 20 has been completed, both of the catches 27, 47 are in contact with the supports 25, 45 with a substantially equal support force. In this case, the support forces produced by the pivot cylinders 22 are equal at each end of the applicator beam 20. Thus, when the pivoting movement of the applicator beam has been completed, the beam is placed in its adjusted position in relation to the roll 14. The kinetic energy of the pivoting movement of the applicator beam 20 is absorbed by means of shock absorbers (not shown), but it is also possible to arrange the shock absorption means on the connecting rod 35 itself (Col. 6, lines 30-59).

In essence, the catches of Salo's size press are configured to *provide angular adjustment of the applicator beam* and to *equalize the forces applied thereto by the pivot cylinders during such angular adjustment*. Applicants submit that there is no motivation to provide such a mechanism with the support structure of Bartnicki.

The Examiner asserts that one of ordinary skill in the art would be motivated to modify the lock of Bartnicki to include the "pivoting members" of Salo "in order to provide means to more quickly and easily removably lock the extendible members" at a desired length. (Office Action, page 3).

However, the catch members of Salo are part of a specific mechanism configured such that, if one catch member pivots, a connecting mechanism causes similar rotation of the other catch member as a part of the compensation process. There is simply no motivation to provide such a mechanism in the support structure of Bartnicki. Applicants submit that simply saying the Salo provides a "pivoting member" that should be added to a specific component of the Bartnicki device, without consideration of the structural and functional context of the "pivoting member," is no more than impermissibly using hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. (See, e.g., *In re Fine*, 837, F.2d, 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Moreover, Applicants submit that there is not a reasonable expectation of success that incorporation of the catch mechanism of Salo with the support structure of Bartnicki will result in the easier operation of Bartnicki's lock as asserted by the Examiner. First, the Examiner has not indicated how the operation of pulling the pin for disengagement of Bartnicki's lock would be

made easier with the proposed incorporation of Salo's catch mechanism. Applicants submit that modification of Bartnicki's lock to include a catch member, such as that which is disclosed by Salo, would, at the very least, result in a more complex structure than that taught which is described by Bartnicki.

Applicants note that operation of Bartnicki's lock is already designed to be extremely straightforward and simple while being safe in its operation. Operation of Bartnicki's lock comprises pulling the pin against the biasing force of the spring to remove the lock from the opening of the second support structure. The spring then causes the pin to engage with an opening of the second support structure upon alignment therewith. Applicants, therefore, submit that one of ordinary skill in the art would not be motivated to modify the lock of Bartnicki in the manner proposed by the Examiner and that there is no reasonable expectation of success in such a proposed modification.

Moreover, assuming *arguendo* that the Examiner's proposed combination would provide means to more quickly and easily removably lock the extendible members as asserted by the Examiner, there is an inherent safety issue in making operation of Bartnicki's lock *too easy* or too efficient. In other words, making the operation of Bartnicki's lock so simple such that inadvertently bumping or pushing would result in the release of the lock (as opposed to pulling action required by the structure of Bartnicki). Such inadvertent disengagement of Bartnicki's lock is in direct contrast with the teachings of Bartnicki wherein the lock is specifically designed to maintain the two sliding sections relative to one another while in use.

As such, Applicants submit that claim 1 is allowable over Bartnicki and Salo. Applicants further submit that claims 2 through 9, 13, 14, 17, 18, 20, and 21 are also allowable as being dependent from an allowable base claims as well as for the additional patentable subject matter introduced thereby.

With respect to claims 3 and 4, Applicants submit that Bartnicki and Salo fail to teach or suggest *at least one catch member pivotably coupled to the second assembly*.

With respect to claim 4, Applicants submit that Bartnicki and Salo fail to teach or suggest *at least one stop member coupled to the second assembly and configured to maintain a rotation of the at least one catch member coupled to the second assembly at less than a full revolution*.

With respect to claim 5, Applicants submit that Bartnicki and Salo fail to teach or suggest that the at least one catch member is *configured to exhibit a substantially bell-shaped geometry along a cross section taken substantially parallel to a longitudinal axis of the first plurality of longitudinally extending members*. Nor does the Examiner cite either Bartnicki or Salo as teaching or suggesting such subject matter.

With respect to claims 6 through 8, Applicants submit that Bartnicki and Salo fail to teach or suggest that the at least one stop member includes a lateral support member *extending through an opening defined in each of the first plurality of longitudinally extending members*.

With respect to claim 8, Applicants submit that Bartnicki and Salo fail to teach or suggest *at least one spacer disposed between adjacent longitudinally extending members of the first plurality and wherein each of the plurality of spacers is disposed about a portion of the lateral support member*.

Applicants, therefore, respectfully request reconsideration and allowance of claims 1 through 9, 13, 14, 17 and 18.

Claims 20 and 21

Independent claim 21 of the presently claimed invention is directed to a method of securing an elevated platform. The method comprises: providing a first elevated support; providing a first catch member with an associated stop member on the platform; displacing at least a first portion of the platform laterally in a first direction until the catch member is positioned substantially beyond at least a portion of the first elevated support; *displacing the at least a first portion of the platform laterally in a second direction until the first catch member engages the at least a portion of the first elevated support*; further displacing the at least a first portion of the platform laterally in the second direction while *substantially simultaneously rotating the first catch member in a direction towards the associated stop member*; and *abutting the first catch member against the associated stop member and against the at least a portion of the first elevated support such that the first catch member prevents further displacement of the at least a first portion of the platform in the second direction*.

As set forth hereinabove, Bartnicki discloses a support having two support sections (14 and 16) slidably engaged with each other. A lock (18) is used to fix the location of the first

location support section relative to the second support section in one of a number of specified positions. In essence, the lock of Bartnicki includes a biased pin coupled to the side of the first support section and configured to engage one of a plurality of openings in a portion of the second support section. Application of an appropriate force to the pin overcomes the biasing force allowing the pin to become disengaged from the openings of the section support section thereby allowing the support sections to slide relative to one another.

As also discussed hereinabove, Salo discloses a size press (10) used in the production of paper goods which includes a nip (N), formed by press rolls (12, 14), through which a paper or board web is passed. The size press includes coating devices (23, 23a) mounted on applicator beams (20, 20a). The Applicator beams are supported pivotally on the frame (11) of the size press and are provided with pivot cylinders (22a) by which the applicator beams can be opened and closed in relation to a corresponding roll. The applicator beams are further provided with catches (27, 47) supported on holders (24) fixed to the frame. The catches are attached to the applicator beam by articulated joints (28, 48) and are interconnected by way of connecting links (30, 50) and a connecting rod (35). (See, e.g., col. 4, line 9 through col. 5, line 45).

The catches of Salo's size press are configured to provide angular adjustment of the applicator beam and equalize the forces applied thereto by the pivot cylinders during such angular adjustment.

Applicants submit that the proposed combination of Bartnicki and Salo clearly fail to teach or suggest all of the method limitations of the presently claimed invention as set forth in claim 20. More specifically, Bartnicki and Salo fail to teach or suggest displacing the at least a first portion of the platform laterally in a second direction until the first catch member engages the at least a portion of the first elevated support. Additionally, Bartnicki and Salo fail to teach or suggest further displacing the at least a first portion of the platform laterally in the second direction while substantially simultaneously rotating the first catch member in a direction towards the associated stop member; and abutting the first catch member against the associated stop member and against the at least a portion of the first elevated support such that the first catch member prevents further displacement of the at least a first portion of the platform in the second direction.

Moreover, the Examiner has not cited Bartnicki or Salo as providing such specific teachings or suggestions. Nor has the Examiner indicated how combination of Bartnicki and Salo would result in the recited acts of the inventive method set forth in claim 20.

As such, Applicants submit that claim 20 is clearly allowable over Bartnicki and Salo. Applicants further submit that claim 21 is also allowable as being dependent from an allowable base claim as well as for the additional patentable subject matter introduced thereby.

More specifically, with respect to claim 21, Applicants submit that Bartnicki and Salo fail to teach or suggest: providing a second catch member with an associated stop member on the platform; laterally displacing a second portion of the platform relative to the at least a first portion of the platform in the second direction until the second catch member is positioned substantially beyond at least a portion of the second elevated support; laterally displacing the second portion of the platform relative to the at least a first portion of the platform in the first direction until the second catch member engages the at least a portion of the second elevated support; further displacing the second portion of the platform laterally relative to the at least a first portion of the platform in the first direction while substantially simultaneously rotating the second catch member in a direction towards its associated stop member; and abutting the second catch member against its associated stop member and against the at least a portion of the second elevated support such that the second catch member prevents further displacement of the second portion of the platform in the first direction.

Applicants, therefore, respectfully request reconsideration and allowance of claims 20 and 21.

Obviousness Rejection Based on U.S. Patent No. 5,067,589 to Bartnicki in view of U.S. Patent No. 5,401,315 to Salo et al. further in view of U.S. Patent No. 3,790,417 to Paterson et al.

Claims 10 through 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315) further in view of Paterson et al. (U.S. Patent No. 3,790,417). Applicants respectfully traverse this rejection, as hereinafter set forth.

Each of claims 10 through 12 depend from independent claim 1 by way of intervening claims. Claim 10 introduces the additional subject matter of at least one of the first and second

pluralities of longitudinally extending members being formed of a composite material. Claim 11, which depends from claim 10, introduces the additional subject matter of the composite material including fiberglass. Claim 12, which also depends from claim 10, introduces the additional subject matter of the composite material including a thermosetting resin.

The Examiner relies on Bartnicki and Salo as applied to claim 1, and then cites Paterson as disclosing “the use of extending members formed of composite materials including fiberglass and thermosetting resin.” (Office Action, page 3). The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to “modify the extending members of Bartnicki in view of Salo et al by forming them of composite material including fiberglass and thermosetting resin, as taught by Paterson et al, in order to reduce the weight and increase the strength of the extending members and thereby the platform assembly.” (*Id.*). Applicants respectfully disagree.

Applicants maintain that Bartnicki and Salo fail to render the presently claimed invention set forth in claim 1 obvious. As has been set forth hereinabove in extensive detail, there is a clear lack of motivation to combine Bartnicki and Salo in the manner proposed by the Examiner. As also discussed hereinabove, there is not a reasonable expectation of success in the proposed combination of Bartnicki and Salo. The additional citation of Paterson fails to add any motivation of combining Bartnicki and Salo or indicating any reasonable expectation of success with regard to the subject matter of claim 1.

Paterson discloses a method of producing fiberboard or hardboard by bonding cellulosic fibers with a thermosetting or thermoplastic resin by providing a layered structure of resin layers and resin-treated fiber layers. However, the fibers used by Paterson are stated to be cellulosic, not fiberglass as asserted by the Examiner. Additionally, while Paterson asserts that the resultant fiberboard is dimensionally stable “with respect to moisture absorption or desorption,” (col. 1, lines 29-30), applicants submit that there is no teaching or suggestion that such fiberboard would be desirable in a structural context *such as forming a longitudinally extending member of a platform assembly therewith*.

Applicants, therefore, submit that claims 10 through 12 are allowable over Bartnicki, Salo and Paterson, and respectfully request reconsideration and allowance thereof.

Obviousness Rejection Based on U.S. Patent No. 5,067,589 to Bartnicki in view of U.S. Patent No. 5,401,315 to Salo et al.

Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315). Applicants respectfully traverse this rejection, as hereinafter set forth.

Each of claims 15 and 16 depend from independent claim 1 by way of intervening claim 2. Claim 15 introduces the additional subject matter of at least one of the first and second pluralities of longitudinally extending members exhibits a substantially I-beam shaped cross-sectional geometry taken substantially transverse to a longitudinal axis thereof. Claim 16, as amended herein, introduces the additional subject matter of at least one of the first and second pluralities of longitudinally extending members exhibits a cross-sectional geometry taken substantially transverse to a longitudinal axis thereof having a first section adjacent a first end thereof, a second section adjacent a second opposing section thereof and at least a third section disposed between the first section and the second section, wherein the at least a third section exhibits a lesser width than either of the first section and the second section.

The Examiner relies on Bartnicki and Salo as applied to claim 1, and then states that it would have merely been a design choice to form the extendible members as having the recited cross-sections.

Applicants maintain that Bartnicki and Salo fail to render the presently claimed invention set forth in claim 1 obvious. As has been set forth hereinabove in extensive detail, there is a clear lack of motivation to combine Bartnicki and Salo in the manner proposed by the Examiner. As also discussed hereinabove, there is not a reasonable expectation of success in the proposed combination of Bartnicki and Salo.

As such, Bartnicki and Salo fail to render claim 1 obvious. Applicants further submit that claims 15 and 16 are allowable at least by virtue of their dependency from an allowable base claim and respectfully request reconsideration thereof.

Obviousness Rejection Based on U.S. Patent No. 5,067,589 to Bartnicki in view of U.S. Patent No. 5,401,315 to Salo et al. further in view of U.S. Patent No. 3,765,509 to Taylor

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bartnicki (U.S. Patent No. 5,067,589) in view of Salo et al. (U.S. Patent No. 5,401,315) further in view of Taylor (U.S. Patent No. 3,765,509). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 19 depends from independent claim 1 by way of intervening claim 2. Claim 19 introduces the additional subject matter of the intended working surface including a textured surface.

The Examiner relies on Bartnicki and Salo as applied to claim 1, and then cites Taylor as disclosing a textured material on the surface of a platform assembly. The Examiner then states that it would have been obvious to one of ordinary skill in the art to “modify the surface of at least one of the extending members of Bartnicki in view of Salo et al by including a textured surface, as taught by Taylor, in order to increase the frictional coefficient of the surface and thereby avoid slippage and increase safety.” (Office Action, page 4). Applicants respectfully disagree.

Applicants maintain that Bartnicki and Salo fail to render the presently claimed invention set forth in claim 1 obvious. As has been set forth hereinabove in extensive detail, there is a clear lack of motivation to combine Bartnicki and Salo in the manner proposed by the Examiner. As also discussed hereinabove, there is not a reasonable expectation of success in the proposed combination of Bartnicki and Salo. The additional citation of Paterson fails to add any motivation of combining Bartnicki and Salo or indicating any reasonable expectation of success with regard to the subject matter of claim 1.

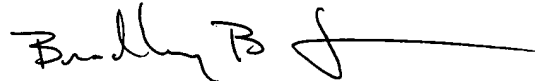
Taylor discloses a scaffold system wherein pads are secured to the *underside* of associated planks. These pads “are constructed of slightly resilient, non-slip material such as synthetic rubber.” (col. 2, lines4-5). The pads are constructed to prevent slippage between the planks and bars of the scaffold system. Taylor, however, does not appear to disclose a textured surface on the *intended working surface* of the planks.

Applicants, therefore, submit that claim 19 is allowable over Bartnicki, Salo and Taylor, and respectfully request reconsideration and allowance thereof.

CONCLUSION

Claims 1 through 41 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bradley B. Jensen", followed by a long horizontal flourish line.

Bradley B. Jensen
Registration No. 46,801
Attorney for Applicants
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: May 2, 2005
BBJ/dlm:lmh

Document in ProLaw